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ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231



RE: U.S. Application
Serial No: 09/926,012
Filed: OCTOBER 24, 2001
Group: 3742
Inventor: YASUJI HIRAMATSU ET AL.
For: CERAMIC HEATER AND SUPPORT
PIN

ATTORNEYS AT LAW

GREGORY J. MAIER
(703) 413-3000
GMAIER@OBLON.COM

ECKHARD H. KUESTERS
(703) 413-3000
EKUESTERS@OBLON.COM

SIR:


Attached hereto for filing are the following papers:

PROVISIONAL ELECTION

Our check in the amount of \$--0-- is attached covering any required fees. In the event that any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.


Gregory J. Maier
Registration No. 25,599
Eckhard H. Kuesters
Attorneys of Record
Registration No. 28,870



22850

Tel: (703) 413-3000
Fax No: (703) 413-2220
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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: :
YASUJI HIRAMATSU ET AL. :EXAMINER: PAIK, S.
SERIAL NO: 09/926,012 :
FILED: OCTOBER 24, 2001 :GROUP ART UNIT: 3742
FOR: CERAMIC HEATER AND SUPPORT PIN

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SIR:

In response to the outstanding Office Action dated March 15, 2002, Applicants elect with traverse the species shown in Figure 8 and 9, corresponding to Claims 1, 2, 4, 5, and 13. Applicants make this election based on the understanding that Applicants are not prejudiced against filing one or more divisional applications that cover the non-elected claims.

As noted, this election of species is being made with traverse.

MPEP §806.04(f) requires:

...Claims to be restricted to different species must be mutually exclusive...

The outstanding Official Action fails to address in any way whether the pending claims recite mutually exclusive characteristics. This provides one basis for traversing the election of species requirement.

Additionally, the Office Action merely states that the present application contains three patentably distinct species. No basis whatsoever is given in support of such a finding as required by MPEP §816, which states:

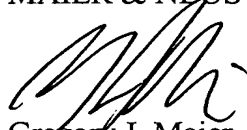
The particular reasons relied on by the examiner for holding the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given....

Moreover, a proper search of any one of the species cited in the Office Action would also necessarily include a search of the other species as well. Examination of all species in the present application would therefore not present a substantially greater burden on the part of the office, whereas election of a single species presents a substantial burden on the Applicants. It is therefore respectfully submitted that the reasons for insisting upon an election of species should be set aside.

Accordingly, it is respectfully requested that the requirement to elect a single species be withdrawn, and that a full examination on the merits of Claims 1-13 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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Gregory J. Maier
Registration No. 25,599
Eckhard H. Kuesters
Registration No: 28,870
Attorneys of Record



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